

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THURL H. LIGHT, II,

Plaintiff,

v.

OFFICER D. SOTASO,

Defendant.

Case No. 1:24-cv-01508-JLT-HBK (PC)

FINDINGS AND RECOMMENDATIONS TO  
GRANT IN PART AND DENY IN PART  
DEFENDANT'S MOTION TO DISMISS

(Doc. No. 17)

FOURTEEN DAY DEADLINE

Pending before the court is Defendant D. Sotaso's motion to dismiss filed on July 24, 2025. (Doc. No. 17). Plaintiff did not file an amended complaint nor an opposition to defendant's motion to dismiss and the time to do so has expired. Fed. R. Civ. P. 15(a); E.D. Cal. Local Rule 230 (l) (affording twenty-one days to file an opposition). This matter is deemed submitted on the record before the court. For the reasons set forth below, the undersigned recommends the district court grant in part and deny in part Defendant's motion to dismiss.

**I. BACKGROUND**

Plaintiff initiated this action by filing a pro se civil rights complaint on December 11, 2024. (Doc. No. 1). On February 27, 2025, the court screened the complaint and found it failed to state any federal claim. (Doc. No. 9). The court advised Plaintiff of the deficiencies in the complaint and applicable law and afforded Plaintiff an opportunity to file an amended complaint. (*Id.*).

1           On March 7, 2025, Plaintiff filed a first amended complaint alleging Eighth and  
2 Fourteenth Amendment violations arising from an incident on May 2, 2024, that occurred in the  
3 Fresno County Jail while he was a pretrial detainee. (Doc. No. 12). The following facts are set  
4 forth in the first amended complaint, which are accepted as true at this stage of the proceedings.

5           Plaintiff as a pretrial detainee was housed in administrative segregation at the Fresno  
6 County Jail. (*Id.* at 5). While returning to his assigned housing from the rooftop yard, Plaintiff  
7 entered an elevator at 5:10 p.m. (*Id.* at 7). After entering the elevator alone, the doors closed but  
8 the elevator remained stationary for two to three minutes. (*Id.*). Defendant Sotaso, who was  
9 operating the elevator from Central Control, “wrongfully reopened” the elevator doors, permitting  
10 two general population inmates—allegedly “active gang members”—to enter. (*Id.*). These  
11 inmates assaulted Plaintiff due to his status as a protective custody inmate and because he openly  
12 identifies as gay. (*Id.* at 3, 7). The assault, which lasted for eight minutes, was observed by  
13 Defendant Sotaso via the surveillance camera without any intervention. (*Id.* at 7). During the  
14 assault, Plaintiff’s colostomy bag was forcibly removed, exposing his organ, and he was struck  
15 repeatedly in the face, head, and torso. (*Id.* at 8).

16           Plaintiff subsequently was escorted to medical care, where his wounds were treated, and  
17 he was prescribed pain medication. (*Id.* at 8). Plaintiff filed grievances regarding the incident  
18 and exhausted his administrative remedies through the Fresno County Jail’s grievance process.  
19 (*Id.* at 9). Plaintiff alleged that Sotaso demonstrated deliberate indifference to his safety and  
20 failed to protect him from harm, in violation of his constitutional rights. (*Id.* at 3-5). As relief,  
21 Plaintiff seeks \$50 million in damages for the injuries he sustained from the elevator assault. (*Id.*  
22 at 6).

23           On March 18, 2025, the court screened the first amended complaint and found Plaintiff’s  
24 rights arise under the Fourteenth Amendment instead of the Eighth Amendment due to his status  
25 as a pretrial detainee, as opposed to a convicted prisoner. (Doc. No. 13). Liberally construed, the  
26 court found the first amended complaint alleged sufficient facts from which this court may  
27 reasonably infer that Defendant Sotaso was aware of the substantial risk faced by Plaintiff, a  
28 protective-custody inmate who identifies as gay, if placed alone in an elevator with two active

1 gang members from the general population. Further, despite having such knowledge, Defendant  
2 reopened the elevator doors permitting these two inmates to enter the elevator with Plaintiff.  
3 Defendant then observed the attack for eight minutes via a surveillance camera from Center  
4 Control without intervening. The court found the first amended complaint adequately stated a  
5 cognizable Fourteenth Amendment claim for deliberate indifference and a failure to protect claim  
6 against Defendant at the screening stage.

7 **II. DENDENDANT'S MOTION TO DISMISS**

8 On July 24, 2025, Defendant Sotaso moved “to dismiss Plaintiff’s First Cause of Action  
9 for Violation of 8th Amendment Threat to Safety, Second Cause of Action for Violation of 8th  
10 Amendment Deliberate Indifference, and Third Cause of Action for Violation of 14th  
11 Amendment Failure to Protect because Plaintiff’s Complaint fails to state a claim upon which  
12 relief can be granted.” (Doc. No. 17 at 2). In Defendant’s memorandum in support of her  
13 motion to dismiss, Defendant asserts that because Plaintiff’s rights stem from the Fourteenth  
14 Amendment, the Eighth Amendment claims must be dismissed. (Doc. No. 18 at 2). Further,  
15 Defendant argues that Plaintiff fails to sufficiently plead a Fourteenth Amendment claim because  
16 there is no allegation that Defendant Sotaso was “subjectively aware of risk.” (*Id.*). Defendant  
17 cites to *Holden v. Hirner*, 663 F.3d 336, 341 (8th Cir. 2011) in support of her argument that  
18 Plaintiff’s failure to plead facts to support her awareness of an “identified risk” is fatal to  
19 Plaintiff’s claim. (*Id.* at 6). In the alternative, Defendant asserts a right to qualified immunity for  
20 allegedly reopening the elevator doors before Plaintiff was attacked. (*Id.* at 7).

21 **III. STANDARD OF REVIEW**

22 A motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure “tests the  
23 legal sufficiency of a claim.” *Conservation Force v. Salazar*, 646 F.3d 1240, 1242 (9th Cir.  
24 2011). Dismissal for failure to state a claim is proper if there is a “lack of a cognizable legal  
25 theory or the absence of sufficient facts alleged under a cognizable legal theory.” *Id.*; *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (to survive a motion to dismiss, the  
26 complaint must have sufficient facts to state a facially plausible claim to relief). In deciding a  
27 motion under Rule 12(b)(6), the court accepts as true all well-pled factual allegations in the  
28

1 complaint and determines whether the factual allegations are sufficient to state a right to relief  
 2 above the speculative level. *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *see also Nw. Env'tl. Def. Ctr.*  
 3 *v. Brown*, 640 F.3d 1063, 1070 (9th Cir. 2011) (court accepts as true all material allegations in the  
 4 complaint, as well as any reasonable inferences to be drawn from them). *See also Starr v. Baca*,  
 5 652 F.3d 1202, 1216 (9th Cir. 2011) (distilling the *Iqbal* and *Twombly* principles in a Rule  
 6 12(b)(6) motion).

7 Because Plaintiff is appearing pro se, the court must construe the allegations of the first  
 8 amended complaint liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam); *see also*  
 9 *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (as amended). Nonetheless, “a liberal  
 10 interpretation of a civil rights complaint may not supply essential elements of the claim that were  
 11 not initially pled.” *Brunsv. Nat'l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997)  
 12 (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

13 A court's determination that a case proceeds past § 1915A initial screening does not  
 14 preclude granting a later-filed motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).  
 15 *Forte v. Hughes*, Case No. 1:13-cv-01980-LJO-SMS, 2014 WL 5603788, \*1 (E.D. Cal. Nov. 3,  
 16 2014) (noting a screening order does not rule on the merits of the proposed action but instead  
 17 evaluates whether the claim is cognizable and is not a substitute for a 12(b)(6) motion); *see also*  
 18 *Teahan v. Wilhelm*, 481 F.Supp.2d 1115, 1119 (S.D. Cal. March 28, 2007)(citations omitted);  
 19 *Murphy v. Warren*, 2015 WL 363023, at \*9, n. 1 (N.D. Ga. Jan. 27, 2015)(same) (citing  
 20 *Cusamano v. Sobek*, 604 F. Supp.2d 416, 435 (N.D.N.Y. 2009)(a determination that a prisoner  
 21 complaint survives the initial § 1915A screening does not preclude later dismissal under Fed. R.  
 22 Civ. P. 12(b)(6) or § 1915(e)(2)).

#### 23 IV. ANALYSIS

24 Although the court found Plaintiff's deliberate indifference and failure to protect claims  
 25 emanate from the Fourteenth Amendment in its screening order, in his first amended complaint,  
 26 Plaintiff did label Claim I as “threat to safety” under the “Eighth Amendment” (Doc. No. 12 at 3);  
 27 Claims II as “deliberate indifference” under the “Eighth Amendment” (*id.* at 4); and Claim III as  
 28

1 “failure to protect” under the Fourteenth Amendment (*id.* at 4).<sup>1</sup> As Defendant correctly points  
 2 out, as a pretrial detainee, Plaintiff’s rights stem from the Fourteenth Amendment, as opposed to  
 3 the Eighth Amendment. *Castro v. Cty. of Los Angeles*, 833 F.3d 1060, 1069 (9th Cir. 2016).  
 4 Thus, to the extent that Plaintiff predicates liability upon Defendant Sotaso under the Eighth  
 5 Amendment, the undersigned finds Plaintiff’s claims fail as a matter of law.

6         The undersigned nonetheless finds the first amended complaint adequately states a  
 7 deliberate indifference and failure to protect claim under the Fourteenth Amendment. Defendant  
 8 cites to *Holden* in support of her argument that Plaintiff has not articulated sufficient facts that  
 9 Sotaso was subjectively aware of and disregarded any known risk to Plaintiff. In *Holden*, the  
 10 plaintiff, a pretrial detainee and sex offender, brought a claim for failure to protect and medical  
 11 deliberate indifference stemming from an assault by three other detainees, including Jones.  
 12 *Holden*, 663 F.3d at 339 (8th Cir. 2011). Holden argued he was placed at risk of substantial harm  
 13 because he was a sex offender and because he was held in the protective custody pod with Jones,  
 14 who was involved in a fight with another detainee just four days before Holden’s altercation. *Id.*  
 15 at 341. At the summary judgment stage, the district court found plaintiff failed to introduce any  
 16 evidence that Jones’ previous assault was against a sexual offender or that officials were aware of  
 17 Jones’ previous assault and thus the evidence was insufficient to show they knew of and  
 18 disregarded a known risk by Jones, who was also held in the protective custody pod. *Id.* at 342.

19         Contrary to Defendant’s argument, a pretrial detainee alleging a failure to protect claim  
 20 under the Fourteenth Amendment is not required to aver facts to show subjective intent. The  
 21 Ninth Circuit in *Castro* held that “the test to be applied under *Kingsley*<sup>2</sup> must require a pretrial  
 22 detainee who asserts a due process claim for failure to protect to prove more than negligence but  
 23 less than subjective intent—something akin to reckless disregard.” *Id.* at 1071. The Ninth Circuit  
 24 identified four elements a pre-trial detainee must be able to show to sustain a failure-to-protect

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25  
 26 <sup>1</sup> In its screening order, the court construed Plaintiff’s first and second claims—threat to safety and  
 27 deliberate indifference, respectively—as reiterations of his Fourteenth Amendment failure to protect claim  
 28 against the sole Defendant, which Plaintiff explicitly asserted in his third claim. (Doc. No. 13 at 1, fn. 2).

<sup>2</sup> *Kingsley v. Hendrickson*, — U.S. —, 135 S.Ct. 2466, 192 L.Ed.2d 416 (2015).

1 claim against individual officers: (1) the defendant made an intentional decision as to the  
2 plaintiff's conditions of confinement, (2) those conditions put the plaintiff at substantial risk of  
3 serious harm, (3) the defendant did not take reasonable available measures to abate that risk, even  
4 though a reasonable officer in the circumstances would have appreciated the high degree of risk  
5 involved—making the consequences of the defendant's conduct obvious, and (4) by not taking  
6 such measures, the defendant caused the plaintiff's injuries. *Id.*

7 Here, Plaintiff avers that Defendant Sotaso who was operating the elevators from Central  
8 Command opened the doors to permit Plaintiff, who was on administrative segregation due to his  
9 sexual orientation, to enter the elevator and close the doors behind him. Defendant then  
10 intentionally reopened the doors, with Plaintiff still inside, and permitted two known gang  
11 members who were housed in general population to enter the elevator with Plaintiff. Defendant  
12 then watched the assault for eight minutes without taking any action to intervene or halt the  
13 assault. At the pleading stage, construing the allegations liberally and assuming these facts to be  
14 true, the undesignated finds Plaintiff has “plausibly suggest[ed] an entitlement to relief” to survive  
15 a motion to dismiss on his deliberate indifference and failure to protect claims under the  
16 Fourteenth Amendment. *Twombly*, 550 U.S. at 555.

17 With regards to Defendant’s assertion of qualified immunity, at the motion to dismiss  
18 stage, “dismissal is not appropriate unless [the court] can determine, based on the complaint itself,  
19 that qualified immunity applies.” *O’Brien v. Welty*, 818 F.3d 920, 936 (9th Cir. 2016) (quoting  
20 *Groten v. California*, 251 F.3d 844, 851 (9th Cir. 2001)). The Supreme Court made clear that  
21 “prison officials have a duty to protect prisoners from violence at the hands of other prisoners”  
22 because corrections officers have “stripped [the inmates] of virtually every means of self-  
23 protection and foreclosed their access to outside aid.” *Farmer v. Brennan*, 511 U.S. 825, 833  
24 (1994) (internal quotation marks and ellipsis omitted). Further, the Supreme Court has long  
25 recognized that the due process rights of a pretrial detainee are “at least as great as the Eighth  
26 Amendment protections available to a convicted prisoner.” *City of Revere v. Mass. Gen. Hosp.*,  
27 463 U.S. 239, 244, 103 S.Ct. 2979, 77 L.Ed.2d 605 (1983). “The Supreme Court need not  
28 catalogue every way in which one inmate can harm another for us to conclude that a reasonable

1 official would understand that his actions violated [a pretrial detainee's] right." *Castro v. Cnty. of*  
2 *Los Angeles*, 833 F.3d at 1067. Further, the Ninth Circuit has long recognized the "danger  
3 creation" exception where a state actor affirmatively creates the particular danger that exposed the  
4 plaintiff to violence. *L.W. v. Grubbs*, 974 F.2d 119, 121 (9th Cir. 1992).

5 Thus, the undersigned does not find that Defendant is entitled to qualified immunity on  
6 the face of the first amended complaint at the motion to dismiss stage.

7 Accordingly, it is **RECOMMENDED**:

8 Defendant's motion to dismiss (Doc. No. 18) be granted to the extent that Plaintiff's  
9 Eighth Amendment claims be dismissed but Plaintiff be permitted to proceed on his deliberate  
10 indifference and failure to protect claims against Defendant Sotaso under the Fourteenth  
11 Amendment.

12 **NOTICE TO PARTIES**

13 These Findings and Recommendations will be submitted to the United States District  
14 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days  
15 after being served with a copy of these Findings and Recommendations, a party may file written  
16 objections with the Court. *Id.*; Local Rule 304(b). The document should be captioned,  
17 "Objections to Magistrate Judge's Findings and Recommendations" and shall not exceed **fifteen**  
18 **(15) pages**. The Court will not consider exhibits attached to the Objections. To the extent a party  
19 wishes to refer to any exhibit(s), the party should reference the exhibit in the record by its  
20 CM/ECF document and page number, when possible, or otherwise reference the exhibit with  
21 specificity. Any pages filed in excess of the fifteen (15) page limitation may be disregarded by  
22 the District Judge when reviewing these Findings and Recommendations under 28 U.S.C. §  
23 636(b)(1)(C). A party's failure to file any objections within the specified time may result in the  
24 waiver of certain rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).

25 Dated: December 17, 2025

  
26 HELENA M. BARCH-KUCHTA  
27 UNITED STATES MAGISTRATE JUDGE  
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